IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 430 OF 2005

Lalsingh Udaysingh. ... Appellant.
Versus.
M/s.West Avenue Relators pvt.Ltd. ... Respondents.

Ms.Geeta Singh for the Appellant.
Shri Niranjan Pandit with Shri Paresh Shah i/by
M/s.Shah & Sanghvi for the Respondents.

CORAM : ABHAY S. OKA, J.

DATED : 1st April, 2005.

P.C.:

1. Heard the learned Counsel appearing for the parties. The challenge is to the ad-interim order dated 20th March 2005. For the reasons recorded the learned trial Judge declined to grant ad-interim relief in favour of the Plaintiff.

2. The Plaitiff/Appellant is occupying a room in the property which is under a project of redevelopment. It is not in dispute that a son the Plaintiff is held eligible by the Competent Authority for allotment of a transit accommodation as well as allotment of a permanent accommodation in the redeveloped property.

3. The case of the Appellant/Plaintiff is that the son of the Plaintiff who is held to be eligible was occupying another tenement in respect of which he is held to be eligible.

4. The electoral roll shows that the Appellant, his

wife, and their son are occupying tenement No.26 on the ground floor. Even the voters identity card issued to the Appellant and his wife shows that they residing in tenement No.26 on the ground floor. There is no averment made in the plaint that the son of the Appellant was independently in possession of another tenement or a particular room in the suit property. Considering all these facts, the learned trial Judge has declined to grant ad-interim relief.

5. Grant of ad-interim relief is discretionary. Considering the documents on record and the averments made in the plaint no interference is required to be made in this Appeal and the same is dismissed with no order as to costs.

6. All the contentions of the parties in the pending Notice of Motion are kept open and the Notice of Motion will be decided on its own merits.

7. Notwithstanding the dismissal of the Appeal, no steps shall be taken to evict the Appellant from the premises in his possession for a period of 10 days from today.

8. The parties to act on authenticated copy of this order.

Judge.